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## Poland's Proposed Digital Services Tax

On August 13, 2025, Poland's Ministry of Digital Affairs unveiled options for a proposed Digital Services Tax (DST). As the government considers whether to advance the measure as a formal bill, Poland must address the fact that a DST would discriminate against a subset of American digital firms while exempting brick-and-mortar local competitors (and out-of-scope local digital firms), selectively target sectors where foreign (particularly U.S.) participation is high, conflict with international tax norms, and inflict double taxation on affected firms. Although the potential monetary impact on U.S. firms is not clear, it would likely well exceed \$100 million: comparable DSTs in Italy and Spain (economies approximately triple and double the size of Poland, respectively) cost U.S. firms approximately US\$487 and US\$442 million in 2024, respectively.<sup>1</sup>

Given that the United States has long opposed these taxes, as reflected by statements by the White House and a series of Section 301 trade investigations that hold such regimes as discriminatory, unreasonable, and burdensome,<sup>2</sup> any such initiative would inevitably undermine bilateral trade relations with a nation that otherwise enjoys strong ties with the U.S.

### Background

In March 2025, Poland's Minister of Digital Affairs, Krzysztof Gawkowski, announced an intention to introduce a DST, explicitly modelled after existing DSTs in place in France and the UK, to "transfer profits from powerful global corporations, regardless of their place of origin, to [a dedicated fund at the discretion of the Minister] and they could then work for the development of Polish technology companies, support Polish startups, deep tech, cloud enterprises or the creation of quality content by the media."<sup>3</sup> The Ministry of Digital Affairs has signaled an intent to release a draft bill before the end of the year.<sup>4</sup>

The Ministry of Digital Affairs subsequently commissioned a report from the Polish think tank, Instrat, which it presented to stakeholders on August 13, outlining two potential DST variants, differing in sectoral scope, each with three different tax rates. Both variants would scope in companies surpassing a global revenue threshold of €750 million from relevant sectors. The wide variant would implement a tax rate of 3%, 4.5%, or 6% on e-commerce, search engine marketing, display advertising, and other sectors, while the narrow variant would implement a tax rate of 5%, 6%, or 7.5% on search engine marketing and display advertising, all of which are rates that are much higher than those under similar DSTs in other countries.

<sup>1</sup> See <https://ccianet.org/library/status-of-key-digital-services-taxes-in-july-2025/>.

<sup>2</sup> <https://ustr.gov/sites/default/files/files/Press/Releases/UKDSTSection301Report.pdf>; and [https://ustr.gov/sites/default/files/Report On France%27s Digital Services Tax.pdf](https://ustr.gov/sites/default/files/Report%20On%20France%27s%20Digital%20Services%20Tax.pdf); and <https://www.whitehouse.gov/presidential-actions/2025/02/defending-american-companies-and-innovators-from-overseas-extortion-and-unfair-fines-and-penalties/>; and <https://www.whitehouse.gov/presidential-actions/2025/01/the-organization-for-economic-co-operation-and-development-oecd-global-tax-deal-global-tax-deal/>.

<sup>3</sup> <https://brusselssignal.eu/2025/03/us-threatens-retaliation-over-planned-polish-digital-tax/>.

<sup>4</sup> <https://www.politico.eu/article/poland-digital-tax-donald-trump-tariffs/>.

Although the bill has yet to be introduced, the primary sectors that could be affected by these proposed measures in Poland, e-commerce, search engine marketing, and display advertising, are expected to generate US\$22.9 billion, US\$877 million, and US\$767 million in 2025, respectively.<sup>5</sup> The e-commerce market is dominated by domestic incumbent Allegro, with additional participation by international firms, while the search engine marketing and display advertising sectors are predominantly foreign.<sup>6</sup> According to the Instrat report, the wide variant would raise approximately US\$470-930 million in the first year of implementation, approximately 74% of which would be derived from the e-commerce sector, 7.8% from search engine marketing, and 9.1% from display advertising. The narrow variant would raise approximately US\$130-200 million in the first year, 46.1% of which would be derived from search engine marketing and 54% from display advertising.

<b>Subsector</b>	<b>Estimated Market size in USD (millions)</b>	<b>Variant</b>	<b>Expected Tax Revenue in USD (millions), Upper Bound Rate, FY27<sup>7</sup></b>
E-Commerce	\$22,900 <sup>8</sup>	Wide	6%: \$698
Search Engine Marketing	\$877 <sup>9</sup>	Wide and Narrow	6%: \$74 7.5%: \$92
Display Advertising	\$767 <sup>10</sup>	Wide and Narrow	6%: \$86 7.5%: \$107
Online Booking Platforms	\$358 <sup>11</sup>	Wide	6%: \$32
Ride-Hailing Services, Online Food Delivery	\$149 <sup>12</sup>	Wide	6%: \$54
Total			Narrow: \$200 Wide: \$930

<sup>5</sup> <https://www.statista.com/outlook/emo/ecommerce/poland>; and <https://www.statista.com/outlook/amo/advertising/search-advertising/poland>; and <https://www.statista.com/outlook/amo/advertising/digital-banner-advertising/poland>.

<sup>6</sup> Allegro's share of the Polish retail e-commerce market was 38.8% at the end of 2024, according to data analytics company Euromonitor International. Amazon held a 3.9% share, followed by AliExpress with 3.4% and Temu with 1.5%. See <https://www.reuters.com/business/retail-consumer/e-commerce-company-allegro-goes-local-stand-out-asian-competitors-2025-05-22/>. Five foreign firms hold 99.75% of the market share for search engines, with the three U.S. firms accounting for 97.83%. See <https://gs.statcounter.com/search-engine-market-share/all/poland>. Market share figures for the display advertising sector are not available, but the Instrat report suggests that the sector is predominantly foreign, naming four foreign firms, three of which are U.S.-based, as the primary entities that would account for the majority of the revenue collected from this segment.

<sup>7</sup> See estimations within Instrat report.

<sup>8</sup> <https://www.statista.com/outlook/emo/ecommerce/poland>.

<sup>9</sup> <https://www.statista.com/outlook/amo/advertising/search-advertising/poland>.

<sup>10</sup> <https://www.statista.com/outlook/amo/advertising/digital-banner-advertising/poland>.

<sup>11</sup> See estimations within Instrat report.

<sup>12</sup> *Ibid.*

## Concerns with Poland's DST Proposal

These proposals raise several concerns implicating trade obligations and tax norms.

**Discrimination by Business Model:** The proposed DST is designed to apply only to digital business models such as e-commerce, search engine marketing, and display advertising, while exempting brick-and-mortar competitors that provide functionally equivalent services, such as traditional retail, offline or broadcast-based advertising, and other non-digital channels. The design of the tax, therefore, advances a structural bias, amounting to *de jure* discrimination by service category.

**Discrimination Against Foreign Services:** The narrow variant intensifies these concerns because it limits the scope of the tax only to search engine marketing and display advertising, sectors composed almost entirely of foreign, primarily U.S.-headquartered, firms, and largely exempts domestic competitors. When coupled with the intention to have a higher rate applied to the narrower approach, the more targeted tax would only further arguments claiming discriminatory and burdensome treatment. Previous Section 301 investigations into DSTs in France and the UK, after which Poland's proposal is modelled, have already concluded that designing DSTs to target advertising and intermediation services dominated by U.S. firms constitutes *de facto* discrimination.<sup>13</sup> Following commitments from Canada, India, Pakistan, and New Zealand to abandon this discriminatory practice under pressure from the U.S. government, this proposal clearly falls into the same category of unfair treatment. Poland's proposed "narrow" variant replicates this model and makes its protectionist intent explicit, as revenue extracted primarily from U.S. companies would be earmarked to fund domestic technology and media sectors, effectively redistributing wealth from foreign service providers to Polish firms, some of which are competitors. Moreover, the funds would not be part of the state budget income, but would finance a discretionary fund under the Minister of Digital Affairs, raising concerns over the transparency and politicization of expenditures. This discriminatory structure could be inconsistent with Poland's GATS national treatment (in committed sectors<sup>14</sup>) and MFN obligations and reinforces the measure's character as a targeted barrier against U.S. service providers. To the extent that any proposed measure affects U.S. investors or investments, such a measure could also implicate the U.S.-Polish Bilateral Investment Treaty (BIT)<sup>15</sup> which is subject to both state-to-state and investor-state dispute settlement.

**Departure from International Tax Norms:** Poland's proposed DST departs from internationally recognized tax principles. By applying to gross revenues rather than net income, the measure disregards the well-established norm that corporate taxation should be based on profits, not turnover, instead opting for an approach that is especially punitive for cross-border services providers. In addition, the DST is inconsistent with the ongoing multilateral negotiations on reallocating taxing rights for large multinational enterprises (i.e., Pillar 1 at the OECD level). By moving forward with a unilateral DST outside this framework, Poland would undermine

<sup>13</sup> <https://ustr.gov/sites/default/files/files/Press/Releases/UKDSTSection301Report.pdf>; and [https://ustr.gov/sites/default/files/Report On France's Digital Services Tax.pdf](https://ustr.gov/sites/default/files/Report%20On%20France%27s%20Digital%20Services%20Tax.pdf).

<sup>14</sup> Poland's commitments with respect to advertising, distribution, and computer and related services are implicated by this proposal. See: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/SCHD/GATS-SC/SC71.pdf&Open=True>.

<sup>15</sup> See <https://2009-2017.state.gov/documents/organization/210528.pdf>.

consensus and further entrench its measure as a discriminatory outlier in the international tax system.

**Risks of Double Taxation:** Poland’s proposed DST would also result in double and multi-layered taxation, compounding its inconsistency with international practice. Multinational firms operating in Poland are already subject to corporate income tax on their Polish-source profits, in line with domestic law and bilateral tax treaties.<sup>16</sup> A turnover-based DST levied on gross revenues would apply in addition to existing profit-based taxation, rather than replacing or crediting against it. Because the DST is not creditable under most double tax treaties, affected companies would be taxed once on revenues through the DST and again on profits through corporate income tax. This duplicative burden contravenes the basic international tax principle that a company should not be taxed twice on the same income stream. The resulting uncertainty and increased effective tax rates would deter cross-border investment and further misalign Poland’s regime with global tax standards.

**Unclear Rules on Determining the Tax Base:** Poland’s proposed DST would largely be determined based on, among other things, IP addresses and the so-called “reasonable assumption” test. Consequently, the introduction of the DST would likely result in the need to collect additional data on users. Moreover, the methodology of using data to determine the tax base and the government’s means to verify reporting remains unclear. The lack of such data could result in determining the tax levels based on broad and unverified assumptions of the size of the Polish market or the number of users, and would be contrary to the principle of certainty and determinacy of the tax liability. Moreover, certain ancillary or related services risk being scoped in that are not digital in nature, such as delivery or logistics. These services are offered to customers as independent, physical services, and their potential inclusion introduces additional ambiguity regarding the proposed measures.

**Fragmentation of the Digital Single Market:** The introduction of a DST in Poland would lead to further fragmentation of the Digital Single Market, with differing tax rules in member states. Not only will this be detrimental to the ease of doing business, but it may also negatively affect the competitiveness of European companies operating across multiple EU states. Consequently, it would hamper the EU’s recent efforts to boost European competitiveness and would further discourage start-ups and SMEs from growing.

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<sup>16</sup> <https://www.irs.gov/pub/irs-trty/poland.pdf>.